

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN**

RETAIL SIMPLY LLC, a Michigan Entity, and
MICHELLE TINK, an Individual Michigan
Resident

Plaintiffs,

v.

KOEN DEWITTE, MARIE VILCEUS, LLOYD
MSIPA, JURGEN HORCH, ANNETTE
BYNOE SAVOURY, BRIAN HENDERSON,
CRAIG ALLEN, RUTH WEDEMEYER,
KAROLIEN DANIES, RUSSELL
COLEGROVE, MANU KOTHARI, AMANDA
DAVIS, PETER RATHJEN, WAYNE
PATEMAN, KOHLER STEFANIE, JASWANT
THACKER, OLAF WILKES, ANDREW
BESSETTE, ADAM LIGHT, JEROME
BARBIER, JAMIE DENNIS, JEROME BOL,
KRISTIEN DE GEYTER, SIJIN SOMERS,
SUSAN HACK, PAUL DOUGLAS, FANNIE
MOODY, ANANYA KHALSA, KRISHNA
SRINIVASAN, MUSTAFA SENGUPTA, and
MAI YAMAGUCHI

Defendants

Civil Action Case No. 21-10957

**COMPLAINT-ACTION FOR DAMAGES FOR
COPYRIGHT INFRINGEMENT, COMMON
LAW TRADEMARK INFRINGEMENT, UNFAIR
COMPETITOR AND VIOLATION OF
MICHIGAN CONSUMER
PROTECTION ACT**

Plaintiff, MICHELLE TINK ('Tink'), and RETAIL SIMPLY LLC ('Retail Simply') sues
Defendants KOEN DEWITTE, MARIE VILCEUS, LLOYD MSIPA, JURGEN HORCH,
ANNETTE BYNOE SAVOURY, BRIAN HENDERSON, CRAIG ALLEN, RUTH

WEDEMEYER, KAROLIEN DANIES, RUSSELL COLEGROVE, MANU KOTHARI, AMANDA DAVIS, PETER RATHJEN, WAYNE PATEMAN, KOHLER STEFANIE, JASWANT THACKER, OLAF WILKES, ANDREW BESSETTE, ADAM LIGHT, JEROME BARBIER, JAMIE DENNIS, JEROME BOL, KRISTIEN DE GEYTER, SIJIN SOMERS, SUSAN HACK, PAUL DOUGLAS, FANNIE MOODY, ANANYA KHALSA, KRISHNA SRINIVASAN, MUSTAFA SENGUPTA, and MAI YAMAGUCHI for Copyright Infringement, Common Law Trademark Infringement and Unfair Competition and Violation of the Michigan Consumer Protection Act.

Introduction

1. This matter arises under the United States Copyright Act of 1976, as amended, 17 U.S.C. §§ 101 et seq. (the “Copyright Act”), common law Trademark rights, and Unfair Competition.

2. Defendants are persistent online infringers of Plaintiffs’ Copyrights and Trademarks. Indeed, using the identities as set forth in Exhibit A, Defendants have used the platform Etsy to illegally distribute each of the Copyrighted works and Common Law Marks set forth on Exhibit A and B.

3. Plaintiff Tink is the registered owner of the Copyrights set forth in Exhibit A as well as the Common law Trademarks set forth in Exhibit B.

Jurisdiction and Venue

4. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 1338 (patents, copyrights, trademarks and unfair competition).

5. This Court has personal jurisdiction over Defendants because a substantial part of the events or missions giving rise to the claims herein occurred in this judicial district. Furthermore, this Court has personal jurisdiction over Defendant's according to MCL 600.705 in that their actions directly caused consequences to occur in this district.

6. This Court has supplemental jurisdiction over Plaintiffs' state law claims pursuant to 28 U.S.C. § 1367, because they involve the same parties, they arise from the same operative facts common to the causes of action arising under the federal claims, and because the exercise of pendant jurisdiction serves the interests of judicial economy, convenience and fairness to the parties.

7. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b) and (c), because: (i) a substantial part of the events or omissions giving rise to the claims occurred in this District; and, (ii) many of the Defendants reside in a country not the United States.

Parties

8. Plaintiff, Retail Simply, LLC (d/b/a) InGENIUS is a Michigan limited liability company organized and existing under the laws of the state of Michigan and has with its principal place of business in 5546 Beauchamp, West Bloomfield MI 48322 in Oakland County.

9. Michelle Tink is an individual resident in the state of Michigan.

10. Plaintiff only knows Defendants by his/her Etsy stores and the names and addresses of the purported store owners provided in DMCA counter notices.

11. Upon information and belief, the majority of the names and contact information provided to the Plaintiff were made up and the true identities of those Defendants are currently unknown.

12. The names and addresses given to Defendant in DMCA counter notices are;

A. KOEN DEWITTE is purportedly a citizen of Belgium and has a physical

address of 92 Bovekerkestraat Koekelare, 8680;

- B. MARIE VILCEUS is purportedly a citizen of the United States and has a physical address of 2677 Links Overlook Drive Dacula, Georgia, 30019;
- C. LLOYD MSIPA is purportedly a citizen of the United Kingdom and has a physical address of 72 Dovehouse Mead, Barking, IG11 7EB;
- D. JURGEN HORCH is purportedly a citizen of Germany and has a physical address of Kirchgasse 11 Obersontheim, 74423
- E. ANNETTE BYNOE SAVOURY is purportedly a citizen of Canada and has a physical address at 109 St NW NW 2511 Edmonton Alberta, T6J5C8;
- F. BRIAN HENDERSON is purportedly a citizen of Canada and has a physical address of 686 GREEN STPORT ELGIN Ontario, N0H 2C0;
- G. CRAIG ALLEN is purportedly a citizen of Australia and has a physical address of 77 Mannum Rd Murray Bridge, South Australia, 5253;
- H. RUTH WEDEMEYER is purportedly a citizen of the United States and has a physical address of 379 Lakeview Blvd, Biloxi, Mississippi, 39531;
- I. KAROLIEN DANIES is purportedly a citizen of Hong Kong and has a physical address of 36 Sloeveldstraat Hoeilaart, 1560;
- J. RUSSELL COLEGROVE is purportedly a citizen of the United States and has a physical address of 15424 Orleans Dr., Biloxi Mississippi, 39532;
- K. MANU KOTHARI is purportedly a citizen of Canada and has a physical address of 2955 Radisson Ave, Windsor Ontario, N9E 4N5;
- L. AMANDA DAVIS is purportedly a citizen of the United States and has a physical address of 4875 Seldon Way, Smyrna Georgia 30080-9265;
- M. PETER RATHJEN is purportedly a citizen of Germany and has a physical

address of 5 Warteburgweg Heiligenhafen;

- N. WAYNE PATEMAN is purportedly a citizen of the United Kingdom and has a physical address of 11 Princes Close Runcorn, WA7 2JT;
- O. KOHLER STEFANIE is purportedly a citizen of Germany and has a physical address of 33 Häsener Weg, Zehdenick, 16792;
- P. JASWANT THACKER is purportedly a citizen of India and has a physical address of LSC, Mayur Vihar Phase 1 Extension, New Delhi 110091;
- Q. OLAF WILKES is purportedly a citizen of Germany and has a physical address of 35 Am Schlossberg, Bad Hoenningen 53557;
- R. ANDREW BESSETTE is purportedly a citizen of the United States and has a physical address of 81 Northgate, Burlington, Vermont 5408;
- S. ADAM LIGHT is purportedly a citizen of Australia and has a physical address of 8 Woodbury Rd, St Ives, New South Wales 2075;
- T. JEROME BARBIER is purportedly a citizen of Belgium and has a physical address of 13 Place Jean Ransy, Courcelles 6180;
- U. JAMIE DENNIS is purportedly a citizen of the United States and has a physical address of 3841 Forest Trail Dr., Sevierville Tennessee, 37876;
- V. JEROME BOL is purportedly a citizen of Belgium and has a physical address of 32 Rue des Resistants, Estaimpuis 7730;
- W. KRISTIEN DE GEYTER is purportedly a citizen of Belgium and has a physical address of 80 Krapstraat, Buggenhout 9255;
- X. SIJIN SOMERS is purportedly a citizen of Belgium and has a physical address of 86 Lindenstraat, Antwerp 2070;
- Y. SUSAN HACK is purportedly a citizen of the United Kingdom and has a

physical address of 28 Middlemoor Road, Camberley GU16 8BU;

Z. PAUL DOUGLAS is purportedly a citizen of the United Kingdom and has a physical address of 31 Festival Road, Ellesmere Port CH65 8HS;

AA. FANNIE MOODY is purportedly a citizen of the United States and has a physical address of 8505 Milford Ave, Silver Spring Maryland 20910;

BB. ANANYA KHALSA is purportedly a citizen of India and has a physical address of 51, Bishnu Apartments, NaliniGunj, Jammu 383134;

CC. KRISHNA SRINIVASAN is purportedly a citizen of India and has a physical address of 35, Pirzada Apartments, Model Town, Nagpur 287586;

DD. MUSTAFA SENGUPTA is purportedly a citizen of India and has a physical address of 56, Gowri Society, Heer Nagar, Noida 256415;

EE. MAI YAMAGUCHI is purportedly a citizen of Japan and has a physical address of 234 Oto Iwatsuki Ward Saitama.

Factual Background

A) Plaintiff Tink is an established artist who makes a living creating original designs for retail products operating under the entity Plaintiff Retail Simply

13. Michelle Tink started her career as an online retail consultant, helping new startups get their products on Amazon, Walmart, Costco, and other major retailers.

14. After teaching herself to use design programs such as Adobe Photoshop and Illustrator, Plaintiff Tink began creating her own designs under the brand name “InGENIUS.” See Exhibit A and Exhibit B.

15. Up until the beginning of the Covid pandemic of early 2020, Plaintiff mainly sold her products through the “Merch by Amazon” program which allows artists to upload their own designs on products which Amazon then manufactures and distributes to the customers.

16. Plaintiff Tink's designs were and continue to be widely popular, which placed her in the top 10% of sellers in the "Merch by Amazon" program.

17. Plaintiffs now have over 160,000 products on Amazon platforms in 6 different countries.

18. The Covid pandemic caused many supply-chain disruptions in Amazon's "Merch by Amazon" program, so Plaintiff decided to focus more on her Etsy stores.

19. Etsy is a widely popular e-commerce website focused on handmade or vintage items and craft supplies.

20. Plaintiff quickly learned that many of her unique and original designs were being sold without her permission.

21. Despite filing on average 30 DMCA takedowns a day, there was no stop to Defendants' infringement as they either submitted fraudulent counter notices or simply opened a new Etsy store after theirs was taken down. (See Exhibit C displaying Plaintiffs efforts in reporting and tracking copyright violations by Etsy stores)

22. Each time one of Plaintiff's new designs became popular, rapid infringement followed. (See Exhibit D displaying Etsy search results of countless stores appropriating Plaintiff's copyrighted "World Peace Tree" design).

23. Plaintiffs' livelihood is in jeopardy due to the chronic infringement that is depriving her of new sales;

B) Defendant's Sell Products on Etsy displaying Plaintiff's original and copyrighted designs as well as "PNG Bundles" that include Plaintiff's original and copyrighted designs and Trademarks;

24. "PNG Bundles" are "products" that many Etsy stores sell that include numerous designs of a specific genre. Many, if not all, of the included designs in these

bundles are copyrighted works of other artists.

25. PNG Bundles are especially harmful to Plaintiffs, and copyright holders in general, because the purchasers of these bundles believe they have a right to use the designs on their own products, and therefore, exponentially increase the infringement of the sold design.
26. Specifically, the Defendants infringements and Trademark appropriations include;
 - A. Defendant KOEN DEWITTE operates the Etsy store “BigStepLife” which sells PNG bundles that include many of Plaintiff’s copyrighted designs and Trademarks including “White Cancer Stars,” “White Pisces Hollow,” and “Stay Trippy Van Distressed”. Plaintiff Tink submitted a DMCA takedown request for these designs on March 11th and March 12th of 2021, and Defendant responded with a fraudulent counter notice on March 13th and 16th respectively. Defendant continues to sell Plaintiff’s original designs and Trademarks. (See exhibit E)
 - B. Defendant MARIE VILCEUS operates the Etsy store “DaculaHomie” which sells PNG bundles that include many of Plaintiff’s copyrighted designs and Trademarks including “Red Mushroom Peace”, “Green Christmas Tree with Words”, “Love Peace Circle Different Colors,” “Stay Trippy Van Distressed” and “Psychedlic Research Head Circle”. Plaintiff Tink submitted a DMCA takedown request for these designs on March 25, 2021, and Defendant responded with a fraudulent counter notice on March 26th. Defendant continues to sell Plaintiff’s original designs and Trademarks. (See Exhibit F)
 - C. Defendant LLOYD MSIPA operates the Etsy store “DesignDigitalShopArt”

which sells PNG bundles that include many of Plaintiff's copyrighted designs and Trademarks including "White Virgo Stars," "Sunflowers Bunch Blue Background," "World Peace Tree," "Sunflower Peace," "Rainbow Pisces Circle," "Pink Pisces Stars," "Sunflower & Rainbow Peace", and "I Teach the Cutest Bunnies in the Patch." Plaintiff Tink submitted a DMCA takedown request for these designs on March 12, and March 23, 2021, and Defendant responded with a fraudulent counter notice on March 18th and March 25th. Defendant continues to sell Plaintiff's original designs and Trademarks. (See Exhibit G)

D. Defendant JURGEN HORCH operates the Etsy store "Digitalki" which sells PNG bundles that include many of the Plaintiff's copyrighted designs and Trademarks including "Pineapple & Pizza Screw the Haters," "Killer Snowman," and "Merry Christmas Red Truck and Tree." Plaintiff Tink submitted a DMCA takedown request for these designs on March 5th, 2021, and Defendant responded with a fraudulent counter notice on March 5th. As of the date of this Complaint, Defendant continues to sell Plaintiff's original designs and Trademarks. (See Exhibit H)

E. Defendant ANNETTE BYNOE SAVOURY operates the Etsy store "FlowerShop8888" which sells PNG bundles that include many of the Plaintiff's copyrighted designs and Trademarks including "Four Seasons Peace Sign." Plaintiff Tink submitted a DMCA takedown request for these designs on March 12, 2021, and Defendant responded with a fraudulent counter notice on March 14th. As of the date of this Complaint, Defendant continues to sell Plaintiff's copyrighted designs and Trademarks. (See

Exhibit I)

- F. Defendant BRIAN HENDERSON operates the Etsy store “funwithhandshop” which sells Tshirts that include many of the Plaintiff’s copyrighted designs and Trademarks including “World Peace Tree” and “Red Hearts Peace Sign.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 17 and April 18, 2021, and Defendant responded with a fraudulent counter notices on April 20th. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.
- G. Defendant CRAIG ALLEN operates the Etsy store “HappyFashionstyle” which sells PNG bundles that include the Plaintiffs copyrighted designs and Trademarks including “White Leo Stars”. Plaintiff Tink submitted a DMCA takedown request for these designs on March 12, 2021, and Defendant responded with a fraudulent counter notice on March 16th. As of the date of this Complaint, Defendant continues to sell Plaintiff’s copyrighted designs and Trademarks. (See Exhibit J)
- H. Defendant RUTH WEDEMEYER operates the Etsy store “HeatherCardinalColor” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “Sagittarius Rainbow,” “Peace Pink & Purple,” “Sunflower Peace,” “Sunflower & Rainbow Peace,” “Rainbow Sprinkled,” “Smoers S'mores Marshmallow Camping Roasting Bonfire Group Hug,” “American Flag Pig,” “White Tarantula,” and “90's Rap Was Better.” Plaintiff Tink submitted a DMCA takedown request for these designs on February 22, March 10, March 27,

March 29, and April 13, 2021, and Defendant responded with a fraudulent counter notice on February 24, March 12, March 30, March 31, and April 15, respectively. As of the date of this Complaint, Defendant continues to sell Plaintiff's copyrighted designs and Trademarks. (See Exhibit K).

- I. Defendant KAROLIEN DANIES operates the Etsy store "JoinTheHappy" which sells PNG bundles that include the Plaintiffs copyrighted designs and Trademarks including "White Aries Stars," and "White Taurus Hollow." Plaintiff Tink submitted a DMCA takedown request for these designs on March 5, 2021, and Defendant responded with a fraudulent counter notice on March 10th. As of the date of this Complaint, Defendant continues to sell Plaintiff's copyrighted designs and Trademarks. (See Exhibit L)
- J. Defendant RUSSELL COLEGROVE operates the Etsy store "MangoAndLemon" which sells PNG bundles that include the Plaintiff's copyrighted designs and Trademarks including "Yellow Sunflower Peace." Plaintiff Tink submitted a DMCA takedown request for these designs on March 29, 2021, and Defendant responded with a fraudulent counter notice on April 1st. As of the date of this Complaint, Defendant continues to sell Plaintiff's copyrighted designs and Trademarks. (See Exhibit M)
- K. Defendant SUSAN HACK operates the Etsy store "PresentIsAGift" which sells PNG bundles that include many of the Plaintiff's copyrighted designs and Trademarks including "Cats Van Peace," "Stay Trippy Van NOT Distressed," "White Pisces Circle Solid," "Sunflower Peace," "Dragonfly," "Leo Circle Hollow," "Leo Circle Solid," "Red Capricorn Stars," "Teaching My Favorite Peeps," "Butterfly Tree," "Stroke Awareness Tree," "Grandma

Bunny,” “Skull Sunflower Sideways,” “Peeps Marshmallow Peace,” “Peace Love Bunny,” “Peace Maroon & Blue,” “Cream Flowers,” “Earth Day Spelled Out,” “Save the Bees,” and “Taurus Hollow Circle.” Plaintiff Tink submitted a DMCA takedown request for these designs on March 10, March 12, March 17, and March 27, 2021, and Defendant responded with a fraudulent counter notice on March 12, March 17, March 19th and March 27, 2021, respectively. As of the date of this Complaint, Defendant continues to sell Plaintiff’s copyrighted designs and Trademarks. (See Exhibit N)

- L. Defendant SIJIN SOMERS operates the Etsy store “PurpleClouds” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “White Aries Stars.” Plaintiff Tink submitted a DMCA takedown request for these designs on March 5, 2021, and Defendant responded with a fraudulent counter notice on March 5th. As of the date of this Complaint, Defendant continues to sell Plaintiff’s copyrighted designs and Trademarks. (See Exhibit O)
- M. Defendant PAUL DOUGLAS operates the Etsy store “QuickShopDaily” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “Sunflower Peace.” Plaintiff Tink submitted a DMCA takedown request for these designs on March 11, 2021, and Defendant responded with a fraudulent counter notice on March 13th. As of the date of this Complaint, Defendant continues to sell Plaintiff’s copyrighted designs and Trademarks. (See Exhibit P)
- N. Defendant JAMIE DENNIS operates the Etsy store “QuinnaShop” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs

and Trademarks including “Red Truck Christmas Tree,” “Dragonfly,” “Dragonfly 2,” “Sunflower & Rainbow Peace,” and “Bright Colors Peace.” Plaintiff Tink submitted a DMCA takedown request for these designs on March 5, 2021, and Defendant responded with a fraudulent counter notice on March 5th. As of the date of this Complaint, Defendant continues to sell Plaintiff’s copyrighted designs and Trademarks. (See Exhibit Q).

- O. Defendant JEROME BOL operates the Etsy store “SparklingStarsShop” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “Cats Van,” “Butterfly Peace Sign,” and “Stay Trippy Van Distressed.” Plaintiff Tink submitted a DMCA takedown request for these designs on February 15, 2021, and Defendant responded with a fraudulent counter notice on February 17th. As of the date of this Complaint, Defendant continues to sell Plaintiff’s copyrighted designs and Trademarks. (See Exhibit R)
- P. Defendant WAYNE PATEMAN operates the Etsy store “WayWayFunny” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “Blow Me Harmonica.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 13, 2021, and Defendant responded with a fraudulent counter notice on April 15th. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.
- Q. Defendant MANU KOTHARI operates the Etsy store “WhiteBearFindsFish” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “Peace Love Tribal,” “Easter Gnomes,”

“Pink Flamingos Heart,” and “Red Aries Stars.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 13, 2021, and Defendant responded with a fraudulent counter notice on April 14th. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.

- R. Defendant KRISTIEN DE GEYTER operates the Etsy store “YouthStoneFinds” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “White Aries Stars,” “Cool Cat Sunglasses Peace,” and “Teaching My Favorite Peeps.” Plaintiff Tink submitted a DMCA takedown request for these designs on March 5, 2021, and Defendant responded with a fraudulent counter notice on March 5th. As of the date of this Complaint, Defendant continues to sell Plaintiff’s original designs and Trademarks. (See Exhibit S)
- S. Defendant AMANDA DAVIS operates the Etsy store “DavisCorp” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “Bunny in the Pocket,” “Dabbing Leprechaun,” and “Marijuana Plant Based.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 13, 2021, and Defendant responded with a fraudulent counter notice on April 15th. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.
- T. Defendant PETER RATHJEN operates the Etsy store “LoveFantasySign” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “Smores S'mores Marshmallow Camping

Roasting Bonfire Group Hug.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 18, 2021, and Defendant responded with a fraudulent counter notice on April 20th. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.

- U. Defendant KOHLER STEFANIE operates the Etsy store “DenMarkArtDE” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “Hippie Cat Van.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 18, 2021, and Defendant responded with a fraudulent counter notice on April 19th. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.
- V. Defendant JASWANT THACKER operates the Etsy store “JaswantThacker” which sells Tshirts that include Plaintiff’s copyrighted design “World Peace Tree.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 17, 2021, and Defendant responded with a fraudulent counter notice on April 20th. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.
- W. Defendant OLAF WILKES operates the Etsy store “OlafDesignsShop” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “Leopard Bunnies.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 17, 2021, and Defendant responded with a fraudulent counter notice on April 20th. As of the date of this Complaint, Defendant’s infringing products have been

temporarily removed by Etsy pending this action.

- X. Defendant ANDREW BESSETTE operates the Etsy store “TheNailaStore” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “World Peace Tree,” “Four Seasons Peace,” and “Hippie Cat Van.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 17, 2021, and Defendant responded with a fraudulent counter notice on April 20th. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.
- Y. Defendant ADAM LIGHT operates the Etsy store “RyaShopDesign” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “Sunflower Peace Sign.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 18, 2021, and Defendant responded with a fraudulent counter notice on April 20th. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.
- Z. Defendant JEROME BARBIER operates the Etsy store “CookooTreeBird” which sells Tshirts that include Plaintiff’s copyrighted design “World Peace Tree.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 19, 2021, and Defendant responded with a fraudulent counter notice on April 20th. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.
- AA. Defendant FANNIE MOODY operates the Etsy store “Eldapas” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and

Trademarks including “Cat Van” & “Stay Trippy Distressed.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 1, 2021, and Defendant responded with a fraudulent counter notice on April 8th. As of the date of this Complaint, Defendant continues to sell Plaintiff’s original designs and Trademarks. (See Exhibit T)

BB. Defendant ANANYA KHALSA operates the Etsy store “GreenBeaver8954” which sells Tshirts that include Plaintiff’s copyrighted design “World Peace Tree.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 18, 2021, and Defendant responded with a fraudulent counter notice on April 23rd. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.

CC. Defendant KRISHNA SRINIVASAN operates the Etsy store “GrayFox7805” which sells Tshirts that include Plaintiff’s copyrighted design “World Peace Tree.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 17, 2021, and Defendant responded with a fraudulent counter notice on April 23rd. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.

DD. Defendant MUSTAFA SENGUPTA operates the Etsy store “VioletBeaver1509” which sells Tshirts that include Plaintiff’s copyrighted design “World Peace Tree.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 17, 2021, and Defendant responded with a fraudulent counter notice on April 23rd. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy

pending this action.

EE. Defendant MAI YAMAGUCHI operates the Etsy store “YamaguchiJapan” which sells PNG bundles that include many of the Plaintiff’s copyrighted designs and Trademarks including “Four Seasons Peace.” Plaintiff Tink submitted a DMCA takedown request for these designs on April 17, 2021, and Defendant responded with a fraudulent counter notice on April 20th. As of the date of this Complaint, Defendant’s infringing products have been temporarily removed by Etsy pending this action.

27. Defendants’ use of Plaintiffs’ common law Trademarks unnecessarily confuse customers and damage Plaintiffs.
28. Defendants’ sale of “PNG Bundles,” which are falsely advertised as original lead to ever more infringement when purchasers of these bundles further use the designs.
29. Defendants know or should know that they are using Copyrights and Trademarks not their own and that the sale of the “PNG Bundles” will result in further infringement.
30. Defendants have and continue to gain financially from their infringement.
31. Plaintiff has suffered sizable monetary damages due to Defendants actions and will continue to do so until Defendants are permanently enjoined.

Miscellaneous

32. All conditions precedent to bringing this action have occurred or been waived.
33. Plaintiff has retained counsel and is obligated to pay said counsel a reasonable fee for its services.

COUNT I
COPYRIGHT INFRINGEMENT

34. The allegations contained in paragraphs 1-33 are hereby re-alleged as if fully set forth herein.

35. Plaintiff is the owner of the Copyrights-in-Suit, as outlined in Exhibit A, each of which covers an original work of authorship.

36. Defendants are selling products of “PNG BUNDLES” which contain the copyrighted works outlined in Exhibit B.

37. Plaintiff did not authorize, permit or consent to Defendant’s distribution or reproduction of its works.

38. As a result of the foregoing, Defendant violated Plaintiff’s exclusive right to:

- A. Reproduce the works in copies, in violation of 17 U.S.C. §§ 106(1) and 501;
- B. Redistribute copies of the works to the public by sale or other transfer of ownership, or by rental, lease or lending, in violation of 17 U.S.C. §§ 106(3) and 501; and
- C. Display the copyrighted works, in violation of 17 U.S.C. §§ 106(5) and 501, by showing individual images of the works non sequentially and transmitting said display of the works by means of a device or process to members of the public capable of receiving the display (as set forth in 17 U.S.C. § 101’s definition of “publically” display).

39. Defendant’s infringements were committed “willfully” within the meaning of 17 U.S.C. § 504(c)(2).

40. Plaintiffs have suffered damages due to these infringements and will continue to do so until Defendants are permanently enjoined.

COUNT II
COMMON LAW TRADEMARK INFRINGEMENT

41. The allegations contained in paragraphs 1-33 are hereby re-alleged as if fully set forth herein.
42. Plaintiffs have common law Trademark rights in the original inGENIUS designs set forth in Exhibit B.
43. Plaintiffs created each design from scratch and has continually used them in commerce for years.
44. Defendants are selling products and “PNG Bundles” containing Plaintiffs common law Trademarks.
45. Defendants use of Plaintiffs Trademarks are unauthorized and willful.
46. Plaintiffs have been damaged significantly by Defendants unauthorized use of Plaintiffs Trademarks and will continue to do so until Defendants are permanently enjoined.

COUNT II
VIOLATION OF THE LANHAM ACT
FOR FEDERAL UNFAIR COMPETITION AND FALSE DESIGNATION OF ORIGIN
UNDER 15 U.S.C. § 1125(a)

47. The allegations contained in paragraphs 1-33 are hereby re-alleged as if fully set forth herein.
48. As its third ground for relief, Plaintiff alleges federal unfair competition under Section 43(a) of the Lanham Act, 15 U.S.C. § 1125(a).
49. The actions of Defendants as alleged herein constitute intentional, willful, knowing and deliberate unfair competition.
50. As a direct and proximate result of Defendants’ unfair competition, Plaintiffs have suffered and will continue to suffer irreparable loss of income, profits and goodwill and

Defendants have and will continue to unfairly acquire income, profits and goodwill.

51. Defendants' acts of unfair competition will cause further irreparable injury to Plaintiff if Defendants are not restrained by this Court from further violation of Plaintiffs' rights. Plaintiff has no adequate remedy at law.

**COUNT III
VIOLATION OF THE MICHIGAN CONSUMER PROTECTION ACT
UNDER MCL 445.903**

52. The allegations contained in paragraphs 1-33 are hereby re-alleged as if fully set forth herein.

53. Defendants' unauthorized use of Plaintiffs' Marks and Copyrights cause a probability of confusion or misunderstanding as to the source, sponsorship, approval, or certification of goods or services in violation of MCL 445.903(1)(a).

54. As a result of Defendants' actions, Plaintiffs have suffered substantial damages.

WHEREFORE, Plaintiff respectfully requests that the Court:

(A) Permanently enjoin Defendant and all other persons who are in active concert or participation with Defendant from continuing to infringe Plaintiff's copyrighted works and Trademarks;

(B) Order that Defendants delete and permanently remove the digital media files relating to Plaintiff's works from each of the computers under Defendant's possession, custody or control;

(C) Order that Defendants delete and permanently remove the infringing copies of the works Defendant has on computers under Defendants' possession, custody or control;

(D) Award Plaintiffs statutory damages in the amount of \$150,000 per infringed Work pursuant to 17 U.S.C. § 504-(a) and (c);

(E) Award Plaintiffs its reasonable attorneys' fees and costs pursuant to 17 U.S.C. § 505; and

(F) Grant Plaintiff any other and further relief this Court deems just and proper.

DEMAND FOR A JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable.

Respectfully submitted,

By: Matthew Kerry
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CERTIFICATE OF COMPLIANCE

Pursuant to MI R USDCTED LR 5.1(a) I hereby certify that the PLAINTIFF'S COMPLAINT has been prepared using one of the font and point selections approved by the Court in MI R USDCTED LR 5.1(a)(3). This document was prepared using Times New Roman (12 pt.).

By: Matthew Kerry
Matthew Kerry